IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.216 OF 2007

Yusuf Ibrahim Khan — Petitioner
vs.
The State of Maharashtra & ors. — Respondents

Mr.N.N.Gawankar for Mr.Aslam S. Shaikh for the petitioner.

Mrs.A.S.Pai, APP for State-respondents.

CORAM : SMT.RANJANA DESAI &
ANOOP V. MOHTA,JJ.

DATED : 21st February, 2007

P.C.

Rule. By consent, rule is heard forthwith.

2. The petitioner is undergoing life imprisonment in Yerwada Central Prison, Pune. His application for furlough was rejected by DIG Prisons, Western Region, Pune vide order dated 5.11.2006. Being aggrieved by the said rejection, the petitioner has approached this Court.

3. We have heard the learned counsel for the petitioner. The learned counsel for the petitioner submitted that the impugned order deserves to be set aside because the reasons given for rejection of the application are not legal. He submitted that it is true that on the first occasion when the petitioner was

released on parole, he overstayed and he had to be arrested. However,. thereafter he again applied for parole on 3.6.2005 on the ground of his wife's illness. His wife was operated for heart ailment and the prison authorities did consider his request and grant him parole. The learned counsel submitted that it is true that the petitioner did not surrender to the prison in time but on 5.12.2005 he on his own reported to the prison. The learned counsel submitted that though the petitioner to be arrested after he was released on parole on the first occasion, his case was considered by the prison authorities for grant of parole thereafter. Therefore the petitioner's first overstay and arrest should not be taken against him and furlough application
may not be rejected on that ground.

4. We have heard the learned APP. The learned APP pointed out to us that the petitioner was first released on parole on 30.5.2002 for 30 days. The period of parole was extended by 30 days. Thus, in all he was granted parole for 60 days. The petitioner was to surrender on 30.6.2002. However, the petitioner overstayed for 29 days and he had to be arrested and brought back. The petitioner again applied for parole on 3.6.2005 on the ground of his wife's illness. He was granted parole for 30 days. His parole was extended by 60 days. Thus, in all 90 days parole was granted to him. He was due to surrender on 2.9.2005. However, he

surrendered to the prison authorities on 5.12.2005 i.e. after 94 days. The learned APP submitted that in the circumstances the Prison Authorities have rightly rejected his application and no interference is necessary with the impugned order.

5. In support of her submission, the learned APP relied on the judgement of this Court in **Cri. Writ Petition No.1624/2004-Bharat @Velji G. Panchal @ Lohar vs. The State of Maharashtra & ors. and other companion petitions dated 2.5.2006** wherein this Court has considered the principles underlying the grant of furlough to prisoners.

6. We have considered the submissions of both sides and in our opinion, no interference is necessary with the impugned order. On the first occasion in all 60 days parole was granted. However, the petitioner overstayed for 29 days and he had to be arrested. Second time in all 60 days parole was granted to the petitioner. However, he overstayed for 94 days. It is true that despite the fact that the petitioner had to be arrested after his parole period expired on 30.6.2002 the prison authorities considered his request for parole favourably and granted him parole for 30 days on 3.6.2005. His parole was also extended. But the petitioner did not respond to the kind approach shown by the prison authorities by surrendering in time. Hence we are not

inclined to set aside the order of rejecting his furlough application. The conduct of the petitioner in not surrendering to the prison when he was granted furlough on the first occasion and the fact that he had to be arrested and also the fact that he surrendered late on the next occasion are good enough reasons for rejecting his furlough application in the facts of this case. In our opinion, the prison administration and maintenance of discipline in the prison cannot be lightly interfered with. In the circumstances, we will have to reject this petition. However, if the petitioner makes any fresh application for furlough the same may be considered independently and in accordance with law. Needless to say that the earlier rejection may not be a permanent bar for the petitioner to get the benefit of furlough and his fresh application will have to be considered on its own merits.

7. Hence, the petition is rejected and rule is disposed of in the aforesaid terms.

[SMT.RANJANA DESAI,J.]

[ANOOP V. MOHTA,J.]